

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

**NOTICE OF REMOVAL OF DEFENDANT
METROPOLITAN LIFE INSURANCE COMPANY**

Defendant, Metropolitan Life Insurance Company (“MetLife”), pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, hereby removes this action filed by Plaintiff Apryl Swatsky (“Plaintiff”) to the United States District Court for the Western District of Oklahoma from the District Court of Oklahoma County, Oklahoma, where it was filed as Case No. CJ-2017-4443. As grounds for removal, MetLife states as follows:

1. On or about August 4, 2017, Plaintiff filed a Petition in the District Court of Oklahoma County, State of Oklahoma, against MetLife, captioned *Apryl Swatsky, Plaintiff, v. Metropolitan Life Insurance Company, Defendant*, Case No. CJ-2017-4443 (the “State Court Action”).

2. Copies of the Civil Summons and the Petition in the State Court Action were served on the Insurance Commissioner of the State of Oklahoma on or about August 11, 2017, and on MetLife through its registered service agent CT Corporation on or about August 14, 2017. True and correct copies of the Petition and Summons received by MetLife are attached hereto as Exhibits 1 and 2, respectively.

3. This action is one of which this Court has original jurisdiction under 28 U.S.C. §1331, and which may be removed to this Court without regard to the citizenship of the parties under 28 U.S.C. §1441(b). The Petition expressly states that Plaintiff brings this action pursuant to federal law, the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), 29 U.S.C. §1001, *et seq.*. Plaintiff alleges in the Petition that she is entitled to benefits as the “primary beneficiary of her late husband David Swatsky’s employee welfare benefit life and accident death insurance plan(s)” (the “Plan”), that MetLife funded the benefits under the Plan through a group policy of insurance, and that MetLife denied Plaintiff’s claim for benefits under the Plan in violation of ERISA. (see Petition, ¶¶ 1, 2, 5, 10). These allegations clearly allege a claim under an employee welfare benefit plan established and maintained by an employer, as defined in and governed by ERISA. Because the Petition seeks relief that would fall within ERISA’s civil enforcement provision, 29 U.S.C. §1132(a), raising a federal question, this cause may be removed to this Court. *Metropolitan Life Insurance Co. v. Taylor*, 481 U.S. 58, 107 S. Ct. 1542, 95 L. Ed. 2d 55 (1987).

4. ERISA preempts all state law claims alleged in the Petition, and provides the exclusive remedies for resolution of benefit claims by employee benefit plan participants and beneficiaries. 29 U.S.C. §1144(a); 29 U.S.C. §1132(a)(1)(B); *Metropolitan Life Ins. Co. v. Taylor*, 481 U.S. 58 (1987); *Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41 (1987).

5. Given that ERISA’s preemption provisions are “deliberately expansive, and designed to establish [employee benefit] plan regulation as exclusively a federal concern,” removal is appropriate. *Pilot Life*, *supra*, 481 U.S. at 46.

6. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) because it is filed within thirty (30) days of MetLife's receipt of the Petition and within one (1) year of the commencement of the action.

7. Written notice of filing of this Notice of Removal will be given to the Plaintiff. Also, as required by 28 U.S.C. § 1446(d), a copy of this Notice will be filed with the Clerk of the District Court of Oklahoma County, State of Oklahoma, the court in which the State Court Action was filed.

8. All papers served on MetLife in the State Court Action at the time of this removal, consisting of the Petition and the Civil Summons are attached as Exhibits 1 and 2 respectively, pursuant to 28 U.S.C. § 1446(a) and LCvR 81.2(a). Pursuant to LCvR 81.2(a), a true and correct copy of the docket sheet in the State Court Action, current through the date of this filing, is attached hereto as Exhibit 3.

WHEREFORE, MetLife respectfully requests that the above referenced action now pending in the District Court of Oklahoma County, State of Oklahoma, be removed therefrom and proceed in this Court as an action duly removed from this day forward.

DATED this 12th day of September, 2017.

Respectfully submitted,

/s/ Renée DeMoss

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CERTIFICATE OF SERVICE

I do hereby certify that on the 12th of September, 2017, a true, correct and exact copy of the above and foregoing document was served by placing same in the United States mail, with proper postage thereon duly prepaid, to counsel of record as listed below:

Roy S. Dickinson
1408 Winding Ridge Road
Norman, Oklahoma 73072
Attorney for Plaintiff

/s/ Renée DeMoss

Renée DeMoss